

1
2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 05-44481

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6 In the Matter of:

7
8 DELPHI CORPORATION ET AL.,

9
10 Debtor.

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12 - - - - -x

13
14 United States Bankruptcy Court

15 One Bowling Green

16 New York, New York

17
18 December 11, 2007

19 10:03 AM

20
21 B E F O R E:

22 HON. ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE
24
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1
2 HEARING re Claims Objection Hearing Regarding Claim of
3 Conestoga Rovers & Associates, Inc.

4
5 HEARING re Claims Objection Hearing Regarding Claim of Furukawa
6 Electric North America APD and Furukawa Electric Co., Ltd.

7
8 HEARING re Claims Objection Hearing Regarding Claim of Recticel
9 Interiors North America, LLC f/k/a/ Recticel North America,
10 Inc.

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12 HEARING re Claims Objection Hearing Regarding Claim of Cadence
13 Innovation LLC.

14
15 HEARING re Claims Objection Hearing Regarding Claim of Samtech
16 Corporation and Mtronics.com, Inc.

17
18 HEARING re Claims Objection Hearing Regarding Claim of
19 Contrarian Funds, LLC.

20
21 HEARING re Claims Objection Hearing Regarding Claim of Sarah E.
22 and Donald R. Sweeton.

23
24 HEARING re Claims Objection Hearing Regarding Claim of Illinois
25 Department of Revenue.

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2 HEARING re Claims Objection Hearing Regarding Claim of ON Semi-
3 Conductor Components Industries, LLC And SPCP Group LLC
4

5 HEARING re Claims Objection Hearing Regarding Claim of City of
6 Vandalia, Ohio.
7

8 HEARING re Claims Objection Hearing Regarding Claim of Howard
9 County, Indiana.
10

11 HEARING re Claims Objection Hearing Regarding Claim of New
12 Jersey Division of Taxation.
13

14 HEARING re Motion to Amend Proof of Claim of Robert Bosch GmbH.
15

16 HEARING re Claims Objection Hearing Regarding Claim of Siemens
17 Financial Services, Inc., And Siemens VDO Automotive SAS And
18 Goldman Sachs Credit Partners, L.P.
19

20 HEARING RE Specialty Coating Late-Filing Motion.
21
22
23

24 Transcribed by: Penina Wolicki
25

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1 P R O C E E D I N G S

2 THE COURT: Please be seated. Good morning. We're
3 here on Delphi Corporation.

4 MR. LYONS: Good morning, Your Honor. John Lyons on
5 behalf of the debtors. Here with me in Court today, Tom Matz
6 and Lisa Diaz from Skadden, Karen Kraft from Delphi, and Janine
7 DeLuca at Delphi, who's on the claims team. Also, Your Honor,
8 Neil Berger from Togut Segal. At the request of the parties,
9 Your Honor, we'd like to take certain of the items in the
10 agenda out of order, to start with VDO Siemens and the other
11 Togut matters. And then once Mr. Berger's finished addressing
12 the Court, then I will go through the balance of the agenda.

13 THE COURT: Okay. That's fine.

14 MR. BERGER: Good morning, Judge.

15 THE COURT: Good morning.

16 MR. BERGER: Neil Berger, Togut Segal & Segal. I've
17 a couple matters. First we could take VDO Siemens.

18 THE COURT: Okay.

19 MR. BERGER: That was scheduled as a contested
20 matter, number 14 on page 18 of the agenda.

21 THE COURT: Right. They were the dueling summary
22 judgment motions.

23 MR. BERGER: Yes, Your Honor. That matter settled
24 late yesterday with the assistance of a mediator. We contacted
25 counsel. My very able colleague Richard Milin, who's our

1 senior litigator who's responsible for the day to day handling
2 of this claim is here today to give Your Honor the basic terms
3 of the settlement, and then we'll move forward to documenting
4 it later today and tomorrow.

5 THE COURT: Okay.

6 MR. MILIN: Richard Milin, Togut Segal. Yes, Your
7 Honor, late yesterday we were able to resolve the Siemens VDO
8 dispute. The terms of the settlement are very simple. Claim
9 2247 will be allowed as a general unsecured nonpriority claim
10 in the amount of one million dollars down from 7.7 remaining.
11 We are grateful to the efforts of the mediator, Bill Harturing
12 (ph.) of Jams in Chicago. And we look forward to documenting
13 the settlement, and we will submit it soon to Your Honor.

14 THE COURT: Okay. Is that a correct description?

15 MR. LEHNER: Yeah, Your Honor. Randy Lehner on
16 behalf of Siemens VDO. That is an accurate description of the
17 settlement.

18 THE COURT: Okay. And does this resolve all VDO
19 Siemens claims?

20 MR. MILIN: No, it does not, Your Honor. There are
21 other claims that have not been resolved. This is limited to
22 2247.

23 THE COURT: The issues that were -- that were before
24 me?

25 MR. MILIN: Yes, and --

1 THE COURT: And that includes the reconciliation
2 issue as well as the contract issue?

3 MR. MILIN: The reconciliation issue was previously
4 resolved in a separate stipulation. The only thing left of
5 2247 was this cancellation claim dispute that we had briefed.

6 THE COURT: Okay.

7 MR. MILIN: So the settlement will resolve 2247 as a
8 whole.

9 THE COURT: All right. Okay. Very well.

10 MR. LEHNER: Thank you, Your Honor.

11 THE COURT: So, I look forward to seeing your
12 stipulation.

13 MR. MILIN: Your Honor we have no -- I'm sorry?

14 THE COURT: I'll look forward to seeing your
15 stipulation and order.

16 MR. MILIN: Your Honor, we have no further business,
17 if we may be excused?

18 THE COURT: That's fine.

19 MR. MILIN: Thank you.

20 MR. BERGER: Thank you, Judge. Just two other Togut
21 matters and I'll go in their order on the agenda. On page 3,
22 number 2 is the objection regarding Furukawa. Your Honor may
23 recall that in the main calendar, the debtors noticed up a
24 default. It was adjourned today as a placeholder, and we were
25 looking forward to receiving a signed discovery stipulation

1 that I received, actually it was handed to me as I was leaving
2 to come to Court this morning. It provides for completion of
3 fact deposition and interrogatory discovery in succeeding
4 months. It contemplates, subject to Your Honor's approval,
5 when we submit the stipulation later today or tomorrow morning,
6 a final pretrial conference in April, based upon our agreement
7 with Furukawa, which I should say also expressly contemplates
8 adjudication of its dispute.

9 In the Southern District of New York there's a
10 reservation of rights in favor of Furukawa to seek a withdrawal
11 reference before discovery's closed, but they have waived the
12 right, I believe, in this stipulation, to go back to Michigan.
13 The matter will be adjudicated in this Court. Having had that
14 agreement in hand, though, we'd ask that this matter be
15 adjourned, again, for holding purposes, to the December 20th
16 omni. When I get back to my office this afternoon, I'll ask
17 Furukawa if it is amenable to taking our default application
18 and their dismissal motion -- cross motion off agenda, not
19 withdraw but off agenda, as we have with other matters. So if
20 Your Honor is agreeable, we'll move today's hearing off to the
21 20th and see if we can't get it off agenda.

22 THE COURT: Okay. Remind me, the default motion here
23 wasn't based on their simply failing to respond to an
24 objection, it was based on their not prosecuting the
25 litigation?

1 MR. BERGER: No, Your Honor. We filed a counter
2 claim --

3 THE COURT: Oh, that's right.

4 MR. BERGER: -- in response to proof of claim.

5 THE COURT: Okay. And that's what they didn't
6 respond to?

7 MR. BERGER: We assert they did not respond.

8 THE COURT: To the counter claim. Okay. All right.
9 That's fine.

10 MR. BERGER: And the last Togut matter, Your Honor,
11 and we appreciate you taking us out of order, is the objection
12 to the claim of ON Semi-Conductor. It was at Docket 8270.
13 Your Honor, we settled this objection, and the primary purpose
14 of the settlement is that ON Semi-Conductor has waived its
15 right to reclamation for a portion of its claim, amounting
16 somewhere in the range of 1.4 million dollars. The Skadden
17 team has our joint agreed stipulation on order a disk, and
18 they'll hand it up at the conclusion of the hearing.

19 THE COURT: Okay. That's fine.

20 MR. BERGER: That's it for Togut Segal today.

21 THE COURT: All right. Very well. Thank you.

22 MR. BERGER: Thank you.

23 THE COURT: Okay.

24 MR. LYONS: Your Honor, the remainder of the matters
25 are settlements. Some are significant though, so I would like

1 to go through, especially some of the more major ones, with
2 Your Honor.

3 THE COURT: Okay.

4 MR. LYONS: But first I'd like to hand up our -- kind
5 of our claim to summary where we are?

6 THE COURT: Okay. That's fine.

7 MR. LYONS: It's pretty safe to say we're making real
8 progress on the remaining claims, in particular with the
9 requirement under the EPCA agreement to have claims liquidated
10 under 1.45 billion. We are making real progress, as Your Honor
11 has seen. The Siemens claim was certainly one step in that
12 process. But, you know, as you can see, we are, from a
13 starting point of over 12,000 claims, we are -- we are -- or
14 even more than that, 16,000 claims, we have remaining, you
15 know, if you look at, the number's really around 900 in total.
16 And most of those, Your Honor, are very small variance claims
17 or even agreed to claims. We certainly have noticed up all of
18 the significant claims under the procedures. So they are
19 currently either on a litigation track and a hearing track. We
20 are also simultaneously approaching some of the claimants with
21 smaller variances through letters and agreed stipulations, and
22 we hope to complete that process by the end of the year, and
23 maybe even early January. So we will, in essence, clean up the
24 bottom part of the claims which have, in the aggregate, not a
25 large variance, but nonetheless, they are a number of claims.

1 So that will help expedite the administration of this case.
2 Your Honor, turning to the agenda, I will go through some of
3 the items and the settlements.

4 THE COURT: Okay.

5 MR. LYONS: First the agenda item number 1 relates to
6 the claim of Conestoga Rovers & Associates. The debtors -- on
7 November 26, 2007, the debtors filed and served notice of
8 deadline to file motion for leave to file a late claim with
9 respect to claim number 16604, Your Honor. That's pursuant to
10 our standard practice to require claimants who filed late
11 claims to file motions. On December 5, 2007, Conestoga Rovers
12 filed a consolidated application in support of the motion to
13 allow the amended claim filed after the bar date as relating
14 back to the original claim, or alternatively for leave to file
15 a late proof of claim. The hearing on this motion will be
16 adjourned to January 10th of next year, Your Honor. So Your
17 Honor will hear that if that doesn't otherwise get resolved.

18 THE COURT: Okay.

19 MR. LYONS: We've already dealt with item number 2 in
20 the agenda relating to Furukawa. Item number 3 relates to the
21 claim of Recticel Interiors North America and AMROC Investments
22 LLC. This relates to two proofs of claim. The first proof of
23 claim number 11026 asserted an unsecured nonpriority claim in
24 the amount of 1.6 million dollars approximately, plus
25 unliquidated amounts against DAS LLC. Proof of claim number

11027 asserted an unsecured claim in the amount of approximately 740,000 dollars, plus unliquidated amounts against DAS LLC. The parties have agreed to the following settlement: Proof of claim 11026 will be allowed in the amount of \$1,034,454.35, and will be an allowed general unsecured claim against DAS LLC. So that's a pickup of approximately 600,000 dollars from the asserted amount. Proof of claim 11027 will be allowed in the amount of \$61,330.16, as a general unsecured against -- general unsecured claim against the estate of DAS LLC, and again that's a pickup of approximately 700,000 dollars.

THE COURT: Okay.

MR. LYONS: Agenda item number 4 relates to the claim of Cadence Innovation LLC. As Your Honor may recall, Cadence involved a patent case that Cadence filed a motion to withdraw the reference --

THE COURT: Right.

MR. LYONS: -- to District Court. I'm happy to report we settled that claim. The -- it involved two proofs of claim. First claim number 10100, which asserted an unsecured nonpriority claim in the amount of 21 million dollars plus unliquidated amounts against Delphi Corp. Proof of claim 10111 asserted a general unsecured nonpriority claim in the amount of 21 million dollars plus unliquidated amounts against DAS LLC. So it was an aggregate claim of 42 million dollars. What we've

1 agreed with Mr. Connolly and Cadence is that the two proofs of
2 claim will be consolidated into one proof of claim and the
3 surviving proof of claim will be 10100. The other claim,
4 10111, shall be expunged -- will be expunged. And the parties
5 have agreed to settle the remaining proof of claim, 10100, for
6 3.75 million as an allowed general unsecured claim against DAS
7 LLC. The proof of claim that is being allowed will not be
8 subject to reduction, offset, challenge or objection or other
9 modifications by the debtors or their estates, successors and
10 assignees, and that we will timely make payment under any
11 subsequently confirmed plan of reorganization. If the plan
12 turns out does not provide for a recovery for holders of
13 general unsecured claims that amounts in the aggregate of a
14 principal amount plus accrued post-petition interest at the
15 negotiated plan value, then Cadence may assert claim number
16 1011 [sic.] against other debtors against whom they had filed
17 proofs of claim. It's kind of similar to the procedural
18 stipulations we've entered in the past.

19 THE COURT: Right.

20 MR. LYONS: And there's some notice requirements
21 there if they want to do that. And our -- and the debtors'
22 rights are reserved if they do assert that claim against the
23 other debtors. But notwithstanding the forgoing, Cadence is
24 going to reserve the right to object to any proposal plan and
25 substantive consolidation of the debtor. So that right is

1 reserved by Cadence. And then finally, Cadence will withdraw
2 the withdrawal motion with prejudice and its response to the
3 third omnibus response. So we will report up to the District
4 Court that this matter's been settled.

5 THE COURT: Okay. I don't remember, did Cadence also
6 allege ongoing patent infringement or was this limited to the
7 prepetition period?

8 MR. LYONS: No, they -- this settles the whole
9 matter. You're right. They did assert continuing violation,
10 but the terms of the settlement are that they will just be
11 given a general --

12 THE COURT: And that resolves their entire patent
13 issue?

14 MR. LYONS: -- that resolves their administrative
15 claim --

16 THE COURT: Okay.

17 MR. LYONS: -- and post-emergence claim.

18 THE COURT: All right. Okay.

19 MR. LYONS: So that we have a stipulation for Your
20 Honor to sign today. Item number 5 relates to the claim of
21 Samtech and Mtronics.com. This relates to two proofs of claim.
22 The first is claim number 12221 filed by Mtronics, and the
23 second is 15611 filed by Samtech. The claim for 12221, the
24 Mtronics claim asserts -- asserted a priority -- unsecured
25 nonpriority claim in the amount of approximately 370,000

1 dollars against DAS LLC. Proof of claim number 15611 asserted
2 an unsecured nonpriority claim in the amount of 375,000 dollars
3 against Delphi Corporation. The parties have agreed to the
4 following settlement: First of all, proof of claim number
5 1221 -- 12221, the Mtronics claim, will be allowed as a general
6 unsecured claim in the amount of \$372,934.72. And the
7 remaining proof of claim, proof of claim number 15611, will be
8 disallowed and expunged in its entirety. So that would resolve
9 that matter.

10 THE COURT: Okay.

11 MR. LYONS: Item number 6 is the claim of Donald and
12 Sarah Sweeton. I'm trying to find this on the agenda -- I'm
13 sorry. On the agenda it's item -- it's actually item number 7.

14 THE COURT: Right.

15 MR. LYONS: Item number 7 is the claim of Donald and
16 Sarah Sweeton. That relates to proof of claim number 11198.
17 The Sweetons filed an unsecured nonpriority claim in the amount
18 of 326,000 dollars, approximately, against DAS LLC. It relates
19 to an ongoing real estate lease that they have that has not yet
20 been assumed or rejected. It's pretty much -- it's a
21 protective claim in case the lease end -- it would be rejected.
22 They've agreed to withdraw the proof of claim number 11198.
23 However, it will be automatically reinstated without further
24 notice or action if the debtors decide to reject the lease.

25 THE COURT: Okay. So they won't have to comply with

1 the order I just issued yesterday, in other words, that deals
2 with notice of rejection, cure of claims, and the like?

3 MR. LYONS: Yes, it's --

4 THE COURT: If you decide to assume it, they wouldn't
5 have to deal with that?

6 MR. LYONS: Right.

7 THE COURT: Okay.

8 MR. LYONS: And I'm unaware, Your Honor, of any
9 rejection decision with respect to this lease.

10 THE COURT: Okay.

11 MR. LYONS: Item number 7, or I'm sorry, item number
12 6 relates to the claims held by Contrarian Funds LLC. Your
13 Honor, these are -- these involve a number of proofs of claim
14 that Contrarian has purchased from other suppliers and other
15 creditors of the debtor. So rather than go through each one,
16 we are going to hand up the stipulations. They pretty much
17 allow the claims at the asserted amount with very few
18 exceptions. All of the claims are certainly under 300,000
19 dollars, and the variances of these claims, let me just count
20 these. We have one, two, three, four, five, six -- sixteen
21 proofs -- this resolves sixteen proofs of claims, Your Honor.
22 There is, again, as I was saying, they're either allowed at the
23 asserted amount or there's a very small variance, none of which
24 totaled more than, I believe 15,000 dollars, 20,000 dollars.
25 So we've got a stipulation going through those particular

1 claims. But rather than go through them now, I'd just -- it
2 might be easier --

3 THE COURT: Okay.

4 MR. LYONS: -- for Your Honor to just look at the
5 stipulations.

6 THE COURT: That's fine. And this is the same type
7 of process you're going to go through now with the remaining ad
8 hoc trade committee claims that Mr. Rosner stipulated to the
9 other day?

10 MR. LYONS: Yeah. We are going to look at those and
11 reconcile those in an expeditious fashion along with the other
12 claims, Your Honor --

13 THE COURT: Right.

14 MR. LYONS: -- frankly, that we're dealing with. And
15 perhaps to be more efficient, at the next claims hearing, when
16 we have these fairly smaller variance claims, we'll just hand
17 Your Honor up a schedule so you can see the variance if any --

18 THE COURT: That's fine.

19 MR. LYONS: -- between the proposed allowed amount.

20 THE COURT: That's fine.

21 MR. LYONS: Item number 8 is the -- the agenda item
22 number 8 is the claim of the Illinois Department of Revenue.
23 This relates to proof of claim number 16470. The -- Illinois
24 asserted a claim in the total amount of 257,000 dollars
25 approximately, consisting of an unsecured priority claim in the

1 amount of 220,000 dollars, and a general unsecured claim in the
2 amount of 35,000 dollars relating to prepetition penalties
3 arising from certain taxes owed by Delphi to Illinois. The
4 parties have agreed to the following settlement: The proof of
5 claim number 16470 shall be allowed in the total amount of
6 \$222,477 -- and 2 dollars, which corresponds to approximately
7 206,000 in taxes and 15,000 in prepetition interest, interest
8 accrued through the petition date, and shall be treated as an
9 allowed unsecured priority tax claim against DAS LLC. The
10 penalties under this -- under this agreement have been
11 effectively waived, in other words. And we have a stipulation
12 to that effect.

13 THE COURT: Okay.

14 MR. LYONS: And item number 9 we've already covered.
15 That's ON Semi-Conductor. Item number 10 relates to a claim
16 filed by the City of Vandalia, Ohio. This relates to proof of
17 claim number 7219, which asserted an unsecured nonpriority
18 claim in the amount of 46 -- approximately 46,000 dollars
19 against DAS LLC, arising from prepetition withholding of taxes
20 from the wages of employees at DAS LLC's plant in Vandalia.
21 And then proof of claim number 16396, purported to amend proof
22 of claim number 7219, and asserted as a priority claim in the
23 amount of 44,000 dollars against DAS LLC, which in effect, was
24 a reduction of the claim. The parties have agreed to the
25 following settlement: Proof of claim 7219, which is the

1 earlier larger claim, will be disallowed and expunged in its
2 entirety, and proof of claim 16396 shall be reclassified as a
3 priority claim and shall be entitled to a recovery in the
4 amount no greater than 23,753 dollars. So it in essence is a
5 cap, and agreed cap between the parties. And also, Delphi
6 Corp., DAS LLC and Vandalia have jointly drafted a groundwater
7 ordinance. Once the ordinance becomes effective, Delphi will
8 indemnify Vandalia solely for certain claims related to the
9 ordinance. However, Delphi's liability will be limited to not
10 exceed more than one million dollars. So this is a -- trying
11 also to resolve a potential environmental groundwater issue.

12 THE COURT: Okay.

13 MR. LYONS: Item number 11 is the claim of Howard
14 County. That relates to proof of claim number 16506. 16506
15 asserted as an amended claim against DAS LLC, a secured claim
16 in the amount of approximately 2 million 60 thousand dollars,
17 and an unsecured priority tax claim in the amount of
18 approximately five million dollars, stemming from certain taxes
19 owed -- allegedly owed by DAS LLC to Howard County. The
20 parties have agreed to the following settlement: 16506 shall
21 be an allowed claim against DAS LLC in the amount of
22 \$6,497,209.88, with such amount corresponding to, first a
23 secured claim in the amount of 1,881,810, and an unsecured
24 priority tax claim in the amount of \$4,615,399.28 against the
25 debtor. So it will split that claim into a priority tax

1 portion and a secured portion. And we have a stipulation,
2 again, Your Honor, that reflects that.

3 THE COURT: Okay.

4 MR. LYONS: Item number 12 is the claim of the New
5 Jersey Division of Taxation. This relates to, and this is our
6 last claim matter, and this relates to proof of claim numbers
7 16610 and 16611. Proof of claim number 16610 asserted an
8 administrative claim in the amount of 171,000 dollars against
9 Delphi Corporation for certain taxes allegedly owed by Delphi
10 and certain affiliated debtors to New Jersey. Proof of claim
11 16611 was asserted as an unsecured priority claim in the amount
12 of 448,000 dollars, approximately, against Delphi Corp. The
13 parties have agreed to the following settlement: Both claims
14 will be disallowed and expunged in their entirety. So we
15 looked into it and determined, and New Jersey agreed that there
16 was no claim.

17 THE COURT: Okay.

18 MR. LYONS: And that -- the debtors pending objection
19 to proof of claim number 16650 on the twenty-first objection is
20 deemed to include an objection on the basis that it is not
21 supported by the debtors' books and records. So that would
22 change the classification of a pending claim which we have
23 which is still live, which is 166502, a broader books and
24 records objection, so we can resolve it in accordance with the
25 claims procedures.

1 THE COURT: Okay.

2 MR. LYONS: Okay. Now, we have two remaining
3 matters. The first relates to the motion of Bosch to amend
4 proof of claim. And, Your Honor, we had actually been before
5 you back in July and had adjourned this motion in exchange for,
6 among other things, Bosch agreed to a cap of their claim at
7 fifteen million dollars. So on June 27, 2007, Robert Bosch
8 GmbH filed its motion to amend proof of claim. The hearing was
9 originally set for July 20, 2007. On July 13 we filed an
10 objection to that motion. On July 20th Your Honor entered a
11 joint stipulation and agreed order which consolidated Bosch's
12 claims for administrative purposes, among other things, and
13 capped the proof of claim in the amount of fifteen million that
14 Bosch had filed and set a maximum amount of fifteen million
15 dollars.

16 To resolve the motion to amend, the debtors and Bosch
17 acknowledge and agree that patent number US 6272411 shall not
18 be included in or form any basis for their remaining claim.
19 And the debtors will not object to the claim on the grounds
20 relating to the proper ownership between Robert Bosch, LLC,
21 which is the US entity, and Robert Bosch GmbH, as to the
22 remaining patents that are specified in the claim. You may
23 recall, Your Honor, in that motion to amend they wanted to add
24 a new patent that had not been listed in their timely filed
25 claims. So we've -- we've, you know, reached this agreement,

1 which will, again, keep that patent out, but there won't be any
2 standing objections as to ownership of the patents that
3 currently remain.

4 THE COURT: That they originally sought.

5 MR. LYONS: That they original sought --

6 THE COURT: Recovery on.

7 MR. LYONS: -- and had been filed under the wrong
8 Bosch entity --

9 THE COURT: Okay.

10 MR. LYONS: -- prior to the bar date.

11 THE COURT: Okay. And the cap remains the same?

12 MR. LYONS: That cap remain the same, and we're
13 actually in active discussions. And that claim is being
14 actively administered right now.

15 THE COURT: Okay.

16 MR. LYONS: So we have a stipulation to that effect.
17 And then finally, Your Honor, the last agenda item is that of
18 Specialty Coatings. You may recall, Your Honor, this had been
19 adjourned from a previous hearing. This related to a
20 reconciliation between affiliated suppliers of Fry's Metal and
21 Specialty Coating Systems. After, you know, taking a look at
22 the reconciliation and further discussions, the debtors are
23 going to withdraw the objection to their motion to allow -- to
24 vacate the order that had expunged the Specialty Coating
25 Systems' claim. So we're not allowing that claim right now,

1 we're just withdrawing our objection so that Special Systems
2 Coating claim of 76,000 dollars, you know, could be reinstated.
3 However, it's the debtors' position that once that is done, the
4 debtors will have post -- a credit against the affiliate, Fry's
5 Metal, which they will be able to, you know, to deal with in
6 their ordinary course post-petition as a credit against post-
7 petition supplies. That matter currently -- we're not asking
8 for any, you know, advisory opinion from Your Honor, but
9 basically, according to our books and records, once the claim
10 is reinstated for Specialty Coatings, there will be a
11 corresponding credit against the Fry's account under the
12 company's books and records.

13 THE COURT: Okay.

14 MR. MICELI: Your Honor, if I may make an appearance
15 at this point? Marc Miceli from Carella on behalf of Cookson
16 Electronics, Fry's Metals and Specialty Coatings. I just want
17 to place on the record that we will be reserving our right
18 absent the procedural mechanism which they can bring this
19 alleged proof of claim.

20 THE COURT: Okay. So are you going to submit an
21 order, then on --

22 MR. LYONS: Yes.

23 THE COURT: -- on the motion to reconsider?

24 MR. LYONS: Yes, we will, Your Honor.

25 THE COURT: Okay.

1 MR. LYONS: Very well. And, Your Honor, that is all
2 I have on the agenda --

3 THE COURT: All right.

4 MR. LYONS: Oh, there are two other items --

5 THE COURT: But when was this -- when was this
6 determination reached?

7 MR. LYONS: Well, it was reached in connection with,
8 I mean, really after the hearing when we went back and did
9 further reconciliation.

10 THE COURT: Okay. You ought to let my chambers know,
11 because we prepared on this one, this motion.

12 MR. LYONS: Oh, I'm --

13 THE COURT: Yeah.

14 MR. LYONS: -- I'm sorry, Your Honor. I --

15 THE COURT: It's all right. I mean, I prepared on it
16 a few months ago, and then you adjourned it, so it didn't
17 involve a lot of work, but just for the future, just a reminder
18 to let us know.

19 MR. LYONS: We will, Your Honor. I --

20 THE COURT: Okay.

21 MR. MICELI: We understand, Your Honor.

22 THE COURT: Okay.

23 MR. MICELI: Your Honor, I have no further business.
24 May I be excused?

25 THE COURT: Yes. That's fine.

1 MR. MICELI: Thank you, Your Honor.

2 THE COURT: Okay.

3 MR. LYONS: Two other quick housekeeping matters,
4 Your Honor. We had filed a motion for the recent changes --
5 the amendments to Bankruptcy Rule 3007, which will be heard on
6 December 20th.

7 THE COURT: Okay.

8 MR. LYONS: We're also preparing an omnibus objection
9 which may be -- well, one of our last omnibus objections before
10 we -- before we have the confirmation hearing. So that motion
11 is --

12 THE COURT: When are you going to file that? Before
13 the 21st or after?

14 MR. LYONS: -- no. It would be after --

15 THE COURT: It would be after.

16 MR. LYONS: -- after, yes. After Your Honor --

17 THE COURT: Okay.

18 MR. LYONS: -- considers our motion. But again, it
19 basically, you know, relies on those personalized notices --

20 THE COURT: Right.

21 MR. LYONS: -- that we have sent out as actually
22 complying with the new 3007.

23 THE COURT: All right. Without prejudging the
24 motion, I think that's a pretty safe reliance on your part.

25 MR. LYONS: Thank you, Your Honor. One other matter.

1 We may have -- I know we rarely do this, but we may have a
2 discovery spat with one of our claimants under the estimation
3 procedures. And I was wondering as to the Court's availability
4 Thursday, late morning or early afternoon, in case we need to
5 have a teleconference with Your Honor.

6 THE COURT: Let me just check. That's the 13th?

7 MR. LYONS: Yes.

8 THE COURT: It would have to be in the afternoon. I
9 have a hearing at 2:00, so late afternoon.

10 MR. LYONS: Late afternoon?

11 THE COURT: Maybe 4 o'clock.

12 MR. LYONS: Okay. What is an alternative, if we
13 would perhaps Wednesday? Because I need to check with the
14 other counsel.

15 THE COURT: Well, I have a REFCO omnibus day which is
16 claim objections in the morning. So probably, you know, from 2
17 o'clock on would be fine.

18 MR. LYONS: On Wednesday. Okay, excellent. Your
19 Honor, that's all I have.

20 THE COURT: Okay. Good.

21 MR. LYONS: Thank you.

22 THE COURT: Thank you.

23 (Proceedings concluded at 10:33 AM)
24
25

C E R T I F I C A T I O N

I Penina Wolicki, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Signature of Transcriber

Date

PENINA WOLICKI

typed or printed name